

**IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE WESTERN DISTRICT OF NEW YORK**

THE UNITED STATES OF AMERICA,

**NOTICE OF DEFENDANT'S
SUBMISSIONS RELATED TO
SENTENCING**

-vs-

DYSHEIKA MCFADDEN,

Defendant.

22-CR-6053

PLEASE TAKE NOTICE, that the defendant, DYSHEIKA MCFADDEN submits the following arguments and authorities relative to sentencing, as more fully set forth in the affirmation of Safa Robinson-Ferrer, Esq.

Dated: July 19, 2022

Respectfully submitted,

s/Safa Robinson-Ferrer
SAFA ROBINSON-FERRER, ESQ.
Attorney for Dysheika McFadden
2480 Browncroft Blvd.,
Rochester, New York 14625
(585) 204-0993

To:

Clerk, United States District Court
Western District of New York
282 Federal Building
100 State Street
Rochester, New York 14614

CASSIE KOCHER, AUSA
Federal Building
100 State Street
Rochester, New York 14614

**IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE WESTERN DISTRICT OF NEW YORK**

THE UNITED STATES OF AMERICA,

-VS-

**SUBMISSIONS RELATED
TO SENTENCING**

DYSHEIKA MCFADDEN,

Defendant.

22-CR-6053

SAFA ROBINSON-FERRER, ESQ., under penalties of perjury pursuant to 28
U.S.C. § 1746, states that:

I am an attorney licensed to practice in the State of New York and the United States District Court for the Western District of New York, I represent the defendant in the above- captioned matter. I set forth below any of the defendant's objections to the presentence investigation report prepared by the United States Probation Department in this case and further submissions related to sentencing.

**DYSHEIKA MCFADDEN HAS NO OBJECTION TO THE
PRESENTENCE INVESTIGATION REPORT**

On May 16, 2022, Mr. McFadden pled guilty to Civil Disorder in violation of 18 U.S.C § 231(a)(3). A plea agreement was executed in which there was an agreed upon sentence guideline range of 30-37 months incarceration. The criminal history category was

determined to be a Category III and a total offense level was calculated and determined to be a level of 17 based on a reduction for acceptance of responsibility. There are additional terms of the sentence that would include restitution to the City of Rochester in the amount of \$4,287.00 to be paid joint and severally among co-defendants along with a fine and period of supervised release.

Upon initial review of the Presentence Investigation Report, Mr. McFadden's social security number was incorrect. His correct social security number has been conveyed to U.S. Probation Officer Bavaria for correction on the final report. Second, Mr. McFadden's grandfather's death year was incorrect and has since been corrected.

Since this is an agreed upon sentence, Mr. McFadden does not object to the contents of the presentence investigation report. He does not object to the agreed upon imposed sentence of 30-37 months of incarceration with a period of 1-3 years post release supervision.

Pursuant to 18 U.S.C § 3553, the Court shall consider several factors when imposing a sentence. The defense would respectfully request a reasonable sentence but not more than necessary that is within the agreed upon range. Mr. McFadden has been out of custody for over two years while this matter has been pending. He has not had any violations of his pretrial release and has had no new arrests.

While it is undisputed that Mr. McFadden does have prior criminal history, he has maintained his role as a productive member of society. He owns a small business, 2169

Cleaning Services. He has substantial support from community members and his family. Mr. McFadden has dedicated his time to volunteerism through the City of Rochester Trenton and Pam Jackson recreation center.

Mr. McFadden is a father to two young male children and is active father in their lives. He spends quality time with his children taking them on breakfast dates, chaperones their school activities and is dedicated to being an overall positive role model and provider in their lives.

Mr. McFadden has suffered tremendous loss of life in the past two years. His cousin who was raised as his brother, Nazier McFadden, was gunned down while sitting inside of a vehicle at a gas station on West Main Street on August 13, 2020. Processing that death has been extremely difficult.

Mr. McFadden also suffered the heartbreaking loss of his grandfather William McFadden. Mr. McFadden was raised by his grandfather, and he identifies him as his father. While in Rochester, Mr. McFadden was living with his grandfather and was his caregiver upon death earlier this year.

Mr. McFadden acknowledges and understands the seriousness of the offense/act in which he participated in and ultimately pled guilty to. His passion for the Black Lives Matter movement ultimately led to his passion being misdirected on that May 30, 2020, day. He deeply regrets his actions that results in him standing before Your Honor awaiting

sentence. He is prepared to receive a just punishment that is consistent with the sentence range that has been agreed upon.

WHEREFORE, Mr. McFadden requests that this Court impose sentence consistent with the agreed upon plea agreement and the sentencing factors within 18 U.S.C. § 3553.

Affirmed under penalty of perjury pursuant to 28 U.S.C. § 1746(2).

Dated: July 22, 2022

s/Safa Robinson-Ferrer

Safa Robinson-Ferrer, Esq.
Attorney for Dysheika McFadden

Certificate of Service

I hereby certify that on July 22, 2022, I electronically filed the foregoing Notice of Defendant's Submissions Relative to Sentencing with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

Cassie Kocher, AUSA

Cassie.kocher@usa.doj.gov

s/Safa Robinson-Ferrer

Safa Robinson-Ferrer, Esq.
Attorney for Dysheika McFadden